

APPEAL NO. 022241
FILED SEPTEMBER 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 2, 2002. The hearing officer determined that the respondent (claimant) had disability resulting from his compensable injury of _____, beginning on December 20, 2000, and continuing through the date of the CCH. The appellant (carrier) appeals the portion of the determination which found that disability continued after December 12, 2001. The claimant responds, urging affirmance.

DECISION

Affirmed.

Whether the claimant had disability resulting from the _____, compensable injury was a factual question for the hearing officer to resolve. The parties stipulated that the claimant had disability from December 20, 2000, through December 12, 2001, and the hearing officer determined that the disability continued after that time until the date of the CCH. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MIKE MARINO
225 EAST JOHN CARPENTER FREEWAY, SUITE 1100
IRVING, TEXAS 75062.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Veronica Lopez
Appeals Judge